Certificate of Service

I certify that I have served three copies of the foregoing Brief in Opposition to Petition for Writ of Certiorari upon Emmett J. Stebbins, Petitioner, [illegible] Eastern Avenue, N. E., Washington, D. C. 20011, by mail, postage prepaid and properly addressed, this [illegible] day of May 1974.

EXHIBITS

Stuart Rothman

EXHIBIT A

CHARLES W. MILTON, JR., being duly sworn, deposes and says:

1. I was born on May 30, 1942 in Atlanta, Georgia, and am a citizen of the United States. In 1964 I was awarded the degree of Bachelor of Science in Business Administration, by the University of South Carolina, upon completion of the 4 years course of study. I was employed by Allstate Insurance Companies (hereinafter called "Allstate"), and now have two and one-half years of experience as a Personnel Assistant with Allstate. I am presently stationed in the Allstate Office at Atlanta, Georgia, in the capacity of Division Personnel Manager. I make this affidavit on the basis of my personal knowledge and experience.

2. In my regular capacity as Personnel Assistant, I interviewed Mr. Emmett J. Stebbins at our office in Hyattsville, Maryland, on May 14, 1968. I personally prepared the memorandum of this interview annexed to this affidavit (Annex A). In the course of the interview, I gave Mr. Stebbins the application form and all the oral and written explanations regarding claims adjustment positions which I give to all other applicants. I further advised him that we would need his completed application, and would be happy to consider him for the position applied for. Shortly thereafter he mailed to us the application dated May 15, 1968 (Annex B). On May 29th I acknowledged receipt of the application, and advised him that the application was not complete, and forwarded to him another application form for re-submission in complete detail if he was still interested in pursuing a career with Allstate (Annex C). On July 18th, my superior, Personnel Manager Orville A. Allen, wrote Mr. Stebbins the annexed letter (Annex D), calling his attention to my letter dated May 29th outlining what would be necessary if he was interested in pursuing employment with Allstate.

3. In the course of the interview on May 14th, Mr. Stebbins completed the two Thurstone tests, on personality and mental alertness, which are taken by all applicants. These tests are designed so that the test scores may be ascertained rapidly and mechanically. Allstate does not apply any minimum test score below which any applicant would be automatically disqualified for employment. Mr. Stebbins did not ask me about his test scores after taking these tests on May 14th. His test scores would not and did not remove him from consideration for employment as Property-Casualty Claims Adjuster. Test results are only one of the many factors in evaluating any and all applicants under the particular position description. Based on the completed application, the interview, and the test results, Allstate evaluates such factors as aptitude, work experience, education, reputation, willingness to work, neatness, cooperative attitude, and ability to contact the claimants and the public. Final authority to hire or reject applicants rests with my superiors.

4. As fully explained in the foregoing affidavit and documents annexed hereto: I did not reject Mr. Stebbins for employment on May 14th or at any time thereafter, because of race, color, or any other reason. Neither I nor my superiors failed or refused to employ him because of race, color, or any other reason. He will be considered fairly, objectively, and in full conformity with Federal and State law, as soon as he completes and returns to Allstate the regular application form, which is completed for such purposes by all applicants. Allstate's employment policies and methods, including the Thurstone tests taken by all applicants, are designed, administered, and acted upon, without discrimination against Mr. Stebbins or any other applicant because of race, color, religion, sex, or national origin.

/s/ Charles W. Milton, Jr.
Charles W. Milton, Jr.

ANNEX A

ALLSTATE

May 17, 1968

Re: *Interview with E. Stebbins*

Mr. Stebbins came in on May 14, 1968 for interview concerning the claims field. (He did not have a scheduled appointment). He refused to complete the employment application prior to a discussion with me.

His questions during the interview were: "Do you have a job description that I can see?" My reply was "no, job descriptions are in our Roanoke Office—but I would be available for questions concerning the job duties and requirements." He was taking notes during our discussion. I inquired as to why he wished to see a job description. His answer was "I like to read about the positions I am applying for". I offered the college recruiting information to him but he was not interested. (He has written Roanoke requesting a job description).

He also inquired as to the current job openings. I informed that positions were available. He asked if I had an employment list showing openings. I replied that I did but did not offer it to him.

Starting salary was the next area he inquired and what qualifications we looked for. My reply was a "base entrance pay grade of $550-880 per mo; basically a college degree for trainees with approximately $7,200 per annum.

I told Stebbins that I had given him enough information and would have to know more concerning his background. His qualifications were college degree, with law school exposure, and 6 years in the BI claims field. He was very short in his answers.

I informed him that we would need a completed application and offered to let him complete one. He said he preferred to take the application with him and mail back. He requested two applications. I inquired as to why he

wanted two. He preferred to make a carbon for his own records was his answer.

I gave him two applications with a self-addressed envelope with first class postage stamp. (He mailed application back two days later with registered stamp.)

He asked if mental tests were required and I informed him that we have two tests, a personality and a mental alertness test. He asked to take both test today of which he did. After completion of the tests he did not inquire as to the results, nor did I discuss.

I told Stebbins that he needed to complete the application and we would be happy to consider him. I gave him the college literature on claims and we terminated our discussion.

/s/ C. W. Milton
C. W. Milton
Personnel Assistant

FOR EMPLOYMENT

... should be completed in full. Questions relating to school subjects, hobbies, studies, and sports require specific answers. The job ... of this form should be as complete as possible, even including part-time jobs held during school years. All information you ... in strict confidence.

Mrs. Miss Emerald J. Stebbins Date May 15, 1968

6810 Eastern Avenue, Northeast, Washington, D. C. 20011 Telephone
(Street) (City) (State) (Zip Code)

Birth (Month) (Day) (Year) Sex Male Citizen of the United States Yes X No Social Security No. 267 188 053

lived in present city 17 If need arose, would you move? Yes What location do you prefer?

own an automobile? No Is it insured? Driver's License No. 243 7711

you ever been rejected or had a ... cancelled by any insurance co.? N/A If so, why?

you ever been bonded? Yes Have you ever been convicted of a felony or misdemeanor? No

...ever been rejected or had ...
...cancelled by any insurance co.? N/A If so, why?

...you ever been bonded? Yes Have you ever been convicted of a felony or misdemeanor? No If "yes" explain

...you licensed to practice law? No What state? Year licensed

FAMILY:

Home Owned Yess Rented Apartment Room

If home is mortgaged, how much $ No If you rent, how much paid per month $

If you have lived at present address less than five years, show previous addresses, length of time at each for last five years and whether you were an owner or renter.

Where do you bank? (List name and location) N/A

Marital status: Single X Married Remarried Date of marriage(s)

Separated Date of separation(s)

Divorced Yes Date of divorce(s) 1962

Widowed Date of spouse(s) death Cause of death

Engaged Expected date of marriage

Number of children One 4. Sex and date of birth of each Female (14 years of Age)

Number of other dependents None Relationship(s)

Given name of spouse N/A 7. Spouse's age

Is spouse employed, or regularly occupied with volunteer work?

Where? What capacity?

In the event of an emergency, whom would you wish notified (other than spouse):

Name

Address Telephone

Health of father Deceased Health of mother Deceased

(IF EITHER PARENT DECEASED, GIVE YEAR OF DEATH. IF ILL, NATURE OF ILLNESS)

Father's occupation (or former occupation) N/A

Check each Brother(s) or Sister(s)	Ages	Occupation(s)
Brother N/A Sister N/A		
Brother Sister		
Brother Sister		
Sister		

AL DATA:

... Good United Average Fair ... Brown

... 1/2 Height Five-Nine 3. Vision-I Wear Glasses

... Have any physical handicaps or physical limitations (describe) None

... Have: Hay Fever No ... Asthma No Allergies (list) No

... of last physical examination I have had no reason to submit to a physical within the one or two decades.

any serious illnesses, operations, accidents or nervous disorders you may have had, with approximate date of occurrence(s)

... None

TION:

... highest grade completed: High School 1 2 3 4; College 1 2 3 4 5(6)7

... School: Name and Location

... attended: from ... to ... day or evening classes

... ite high school subjects

... Liked high school subjects

... curricular activities (scholastic and athletic)

... offices held

...(s): Name(s) and dates attended. (Indicate day or evening classes.) (1) ... (3)

... Majors: (1) ... (2) ... (3) ...

... t least liked None

...(s) and year(s) received AB

...curricular activities (scholastic and athletic) You name it and I have participated

... offices held

... portion of your college expenses did you earn All How Military Benefits

... al or technical courses taken. Business Law, Contracts, Torts, Bills & Notes, Insurance, ...ations, Equity Pleadings, Constitutional Law, Money & Banking, Wills & Administrat... ...l & Civil Procedure, Property Personal & Real, Conflicts of Laws

... ...te typed 10 & 10 WPM

Memberships in civic, professional or social organizations. (Other than those whose name would indicate race, creed, etc. of its members) N/A

Hobbies or interests (past or present) Mathematics, Electronics, Radiology and Anatomy

In what additional activities would you like to engage

UNITED STATES SERVICE EXPERIENCE:

Service, if any: Branch Air Force Date entered 1942 Date discharged 1945

[ ] Yes
[ ] No Beginning rank or grade Aviation Cadet Highest rank or grade Captain

Type of discharge Honorable Terminal rank or grade Captain

Military duties or type assignment Personnel (Administrative)

Present military status: Ready Reserve N/A Standby Reserve Other

Explain in detail

BUSINESS EXPERIENCE: (Including part-time work)

I. Present Employment

1. Firm Telephone
Type of industry Legal Profession
Address
2. Title Investigation(negligence Cases) Department
3. Nature of work Legal & Non-legal Date Began
4. Name and title of immediate superior
5. Starting Salary N/A Present Salary
6. What do you most like about your job Secret
7. What do you least enjoy. The question is ambiguous
8. Why do you want to change jobs. Secret

Previous Employment. I shall answer all confidential question subsequent to employment

1. Firm Type of industry
Address
2. Title Department
3. Nature of work Employed From To
4. Name and title of immediate superior
Starting salary Salary at time of leaving
What did you like about the work

What did you dislike

Reasons for leaving

Department

Type of work — Employed From — To

Name and title of immediate superior

Starting salary — Salary at time of leaving

What did you like about the work

What did you dislike

Reasons for leaving

Positions Held:

Name of Company	Type of Work	Date Began	Date Left	Reason for Leaving

Have you ever worked for Allstate or Sears? — If so, when? — Where?

The reason for this application [ ] Newspaper Ad [ ] Agency [ ] Referred by Employe [ ] Referred by school

Mr. Russell Wileman, Personnel Director of Regional Office of Na tion-Wide Comm.
Suggested that I Contact Allstate (Annapolis, Maryland office of Nation-Wide.

What additional education or experience have you had that you think is useful in your present job, or would be of value if you were to be promoted to a more responsible position?

College and Legal Education and Legal Experience

Notation - I can assure you that I can efficiently perform any Duties Assigned.

Regardless of your present salary, what income would you need to enable you to live as you would like to live? (This relates to type of housing and general living conditions you may desire ultimately; and your response will not be construed as dissatisfaction with your present salary.)

I do not think that is a fair question.

What starting salary do you desire? $8,200.00 annually

What kind of work are you applying for? Prpoperty and Casualty Adjustor.

What are your plans for the future?

I understand that any offer of employment which may be made to me is contingent on satisfactory reference information and successfully passing the company's physical examination.

If employed, I agree to submit myself to examination by a physician or physicians of the company's selection as often as may be requested.

Signature Emmett D. Holmes

APPLICANT — Do not write in this space

INTERVIEWER'S COMMENTS

PHYSICAL EXAMINATION

Date — Time

Physician

EMPLOYMENT

Starting date:

Source:

Location:

Dept.:

Position:

Salary:

20

ANNEX C

May 29, 1968

Mr. E. J. Stebbins:
5880 Eastern Avenue N. E.
Washington, D. C. 20011

Dear Mr. Stebbins:

Thank you for returning the Confidential Application you completed on May 15, 1968 indicating an interest in the position of Property and Casualty Adjuster.

The application you returned was not completed in detail and before we can proceed with future selection interviews, we need a full and completed Confidential Application. This, of course, is needed for an objective and fair evaluation.

A Confidential Application is enclosed for your re-submission if you are still interested in pursuing a career with our Company.

Very truly yours,

C. W. MILTON, JR.
C. W. Milton, Jr.
Personnel Assistant

ANNEX D

July 18, 1968

Mr. Emmett J. Stebbins
5880 Eastern Avenue, Northeast
Washington, D. C. 20011

Dear Mr. Stebbins:

This is in reply to your letter of June 16, 1968 requesting our job description for claim adjusters.

Enclosed is a brochure outlining our claim positions and the opportunities in our claim organization. We do not pass along our official job descriptions to applicants. I believe Mr. C. W. Milton's letter of May 29, 1968 out-

lined what would be necessary if you are interested in pursuing employment with our Company.

ORVILLE A. ALLEN
Orville A. Allen
Personnel Manager

OAA:ml
Enclosure

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

EMMETT J. STEBBINS, *Plaintiff*

v.

ALLSTATE INSURANCE COMPANIES ET AL, *Defendants*

Civil Action #2484-68

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DISMISSING COMPLAINT

(Filed March 7, 1969)

This matter coming on to be heard upon Defendants' Motion for Summary Judgment pursuant to Rule 56(b), Federal Rules of Civil Procedure and this Court's Rules, including Rule 9(h), and it appearing from the pleadings and other documents before the Court and argument by Defendants' Counsel that there is no genuine issue as to material fact; and it further appearing that since Plaintiff failed and refused to complete an application for employment Defendants have not refused to employ him;

ORDERED: Motion for Summary Judgment is granted and the Complaint herein is dismissed.

/s/ MATTHEW F. MCGUIRE,
Matthew F. McGuire
Senior Judge

Date: 3/6/69

EXHIBIT C

3143 Lyndale Place, Southeast,
Washington, District of Columbia,
Zip Code 20019,

May 31, 1970.

Allstate Insurance Companies,
Personnel Officer,
Claims Department,
1590 Rockville Pike,
Rockville, Maryland.

Gentlemen:

Please advise me of the "job opportunities" available within the Eastern Zone, in general, and particularly in the State of Maryland, District of Columbia, and the Commonwealth of Virginia. I am desirous of obtaining employment in your Claims Department. What "job opportunities" are offered by Allstate to or for "high school graduates" and "college graduates"?

If you have or possess any vacancies within the Claims Departments within the State of Maryland, District of Columbia, and the Commonwealth of Virginia, please supply me with copies of the "listed" vacancies and the "standard job description and specification" for each "listed" vacancy; or advise me as to place or location this requested information can be ascertained or had for inspection, copying or examination.

Your cooperation is appreciated.

Sincerely,

/s/ EMMETT J. STEBBINS
Emmett J. Stebbins

EXHIBIT D

June 22, 1970

Mr. Emmett J. Stebbins
3143 Lyndale Place, S. E.
Washington, D. C. 20019

Re: *Emmett J. Stebbins Versus Allstate Insurance Company*

Dear Mr. Stebbins:

Since you reside in the District of Columbia which is a part of our Roanoke Regional territory located at 1819 Electric Road, Roanoke, Virginia, please contact the Personnel Department in the aforementioned office if you are interested in making application for employment.

Sincerely,

MICHAEL A. SNIPES

EXHIBIT E

3143 Lyndale Place, Southeast,
Washington, District of
Columbia, Zip Code 20019,

July 6, 1970.

Personnel Officer, Claims Department,
Allstate Insurance Companies,
1819 Electric Road,
Roanoke, Virginia.

Dear Sir:

Please advise the undersigned of the "job opportunities" available within the Companies' Offices during business within the Commonwealth of Virginia, District of Columbia, Delaware, Maryland, and West Virginia. I am desirous of obtaining employment in any position or occupation within which I meet the qualifications of the Companies' "Standard Job Description And Specifications".

What "job opportunities" are offered or available for "high school graduates" and "college graduates" within the offices aforementioned?

If you have or possess or is contemplating any vacancies within any Departments within the Offices aforementioned, please supply me with copies or a copy of the "listed vacancies", or contemplated vacancies and the "Standard Job Description And Specifications" for each listed or contemplated vacancies; or, advise the undersigned as to place or location this requested information can be ascertained; or, had for inspection, copying, examination; or, for possession, prior to submission of an application for employment.

Thank you, sir, for your cooperation.

Sincerely,

/s/ EMMETT J. STEBBINS
Emmett J. Stebbins

EXHIBIT F

3143 Lyndale Place, Southeast,
Washington, District of Columbia,
Zip Code 20019,

June 10, 1971.

Personnel Officer,
Allstate Insurance Companies,
1819 Electric Road,
Roanoke, Virginia.

Gentlemen:

Please advise the undersigned of the "job opportunities" available within the Companies' offices during business within the Commonwealth of Virginia, District of Columbia, Delaware, Maryland, and West Virginia. I am de-

sirous of obtaining employment in any position or occupation within which I meet the qualifications of the Companies' "Standard Job Description And Specifications".

What "job opportunities" are offered or available for "high school" graduates and "college graduates" within the offices aforementioned?

If you have or possess or is contemplating any vacancies within any department within the offices aforementioned, please advise or supply me with copies or a copy of the "listed vacancies", or contemplated vacancies and the "Standard Job Description And Specifications" or "Position Description" for each listed or contemplated vacancy; or, inform the undersigned as to place or location this requested information can be ascertained; or, had for inspection, copying, examination; or, for possession, prior to submission of an application for employment.

Thank you, sir; for your cooperation.

Sincerely,

/s/ EMMETT J. STEBBINS
Emmett J. Stebbins

EXHIBIT G

June 28, 1971

Mr. Emmett J. Stebbins
3148 Lyndale Place, S.E.
Washington, D. C. 20019

Dear Mr. Stebbins:

We have your June 10 letter relative to employment opportunities in the District of Columbia, Delaware, Maryland, Virginia and West Virginia.

Regarding your request for copies of standard job descriptions of claim adjuster positions, we wish to remind

you that you already are in possession of such descriptions. The descriptions of Property Loss Adjuster A and B and Casualty Loss Adjuster A and B were furnished to you December 10, 1968, as Exhibits 1, 2, 3 and 4 annexed to Defendant's Response to Plaintiff's Interrogatories. There has been no subsequent change in these job descriptions.

Judging by previous correspondence and your past conduct, and in view of the litigation which you have initiated against other companies, we have concluded that your requests for information regarding employment constitute a form of harassment. It seems amply clear that you are not interested in obtaining a position with this company. Accordingly, we can see no purpose in replying to your letters or in conducting any further correspondence with you.

Sincerely,

MICHAEL A. SNIPES
Division Personnel Mgr.